NT>

14.05 hrs.

Title: Combined discussion on the Statutory resolution regarding disapproval of Representation of the People (Amendment) Ordinance, 2002 and the Representation of the People (Amendment) Bill, 2002. (Resolution negatived and Bill passed.)

MR. DEPUTY-SPEAKER: We will now take up item nos. 20 and 21 together. The time allotted for this is two-and-a-half hours.

श्री रामजीलाल सुमन (फिरोजाबाद) : उपाध्यक्ष महोदय, मैं निम्नलिखित संकल्प प्रस्ताव करता हूं :

> "कि यह सभा राट्रपति द्वारा 24 अगस्त, 2002 को प्रख्यापित लोक प्रतिनिधित्व (संशोधन) अध्यादेश, 2002 (2002 का संख्यांक 4) का निरनुमोदन करती है।"

THE MINISTER OF STATE IN THE MINISTRY OF COAL AND MINES AND MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI RAVI SHANKAR PRASAD): Sir, on behalf of Shri K. Jana Krishnamurthi, I beg to move:

> "That the Bill further to amend the Representation of the People Act, 1951, be taken into consideration."

श्री रामजीलाल सुमन : उपाध्यक्ष महोदय, राजनीति में अपराधीकरण निश्चित रूप से चिन्ता का विाय है। आज स्थिति यह हो गई है कि धन-बल, बाहुबल राजनीति पर इतना हावी हो गया है कि सही मायने में किसी राजनैतिक कार्यकर्ता का चुनाव लड़ना मुश्किल है। इस पर अंकुश लगना चाहिये। मुझे प्रसन्नता है कि ऑर्डिनेंस जारी होने के पहले सरकार ने प्रतिपक्ष के लोगों को विश्वास में लिया। राजनीति में अपराधीकरण पर अंकुश लगे, निश्चित रूप से सरकार का यह अच्छा प्रयास है। मैं चाहूंगा कि इस पर और ज्यादा मज़बूती से काम किये जाने की जरूरत है।

इन्हीं शब्दों के साथ मैं इस बिल का समर्थन करता हूं और अपना सांविधिक संकल्प वापस लेता हूं।

SHRI RAVI SHANKAR PRASAD: Sir, I appreciate that Shri Ramji Lal Suman is withdrawing his Statutory Resolution. He has rightly said that this Bill seeks to address the concerns of criminality which is seeping into the body politic in the country. ...(*Interruptions*)

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Shri Ramji Lal Suman has withdrawn the Statutory Resolution, but I do not agree with him. I have also moved the Disapproval Resolution. That is the position.

MR. DEPUTY-SPEAKER: The position is that the Mover of the Resolution wants to withdraw it.

SHRI VARKALA RADHAKRISHNAN : Though he wants to withdraw the Resolution, it is not applicable to me.

MR. DEPUTY-SPEAKER: It is applicable to you because he is one of the Movers of the Resolution.

SHRI VARKALA RADHAKRISHNAN : My Resolution is independent of his Resolution. How can I agree with him?

MR. DEPUTY-SPEAKER: Shri Radhakrishnan, he has moved the Resolution.

SHRI VARKALA RADHAKRISHNAN : I do not agree with him. I have moved an independent Disapproval Resolution.

MR. DEPUTY-SPEAKER: Shri Radhakrishnan, why do you not hear me? He has moved the Resolution and he has to withdraw the Resolution with the leave of the House, at the end of the discussion. You have forgotten all these things. You were the Speaker of the Kerala Assembly. Now, the Minister has to make his speech.

SHRI RAVI SHANKAR PRASAD: Sir, the Government had its commitment towards electoral reforms with a view to eliminate this criminality seeping into the body politic in the country. In the meantime, there were judgments of the Delhi High Court, and the hon. Supreme Court, saying that the right of information should be made available to the voters about the criminal background and other relevant aspects. After the judgment, the Election Commission came with a notification wherein it said, "In case the affidavit is filed, the contesting candidate can challenge that. In the event the Returning Officer finds it true, he can reject the nomination paper." That was a matter of concern because in terms of law, rejection of nomination paper is possible only upon a specified ground. Thereafter, we

went for a wide-ranging consultation with all the political parties, which Shri Ramji Lal Suman mentioned. It took place in July-August.

Sir, based upon the consensus of all the political parties, we have come up with this Bill. The salient features of the Bill are the following:

1. If against a candidate a charge has been framed in criminal proceedings in which a sentence can be given for two years or more, then he has to disclose that.
2. If a person is convicted even for one year, then also he has to disclose it.
3. He has also to submit, after election, to the Presiding Officer of the House concerned, his assets and liabilities including his dues to the bank or to the Government within three months of the election.
4. We have made a provision that in case there is a wilful default, then the Presiding Officer, in terms of the rules to be framed, can initiate action for breach of privilege.

Sir, the Bill is historic in nature. It is though a modest beginning, yet a good beginning. This Bill has been brought forward after a consensus amongst all political parties and I would request this august House to adopt this Bill.

MR. DEPUTY-SPEAKER: Motions moved:

> "That this House disapproves of the Representation of the People (Amendment) Ordinance, 2002 (No. 4 of 2002) promulgated by the President on 24 August, 2002."
>
> "That the Bill further to amend the Representation of the People Act, 1951, be taken into consideration."

SHRI PRIYA RANJAN DASMUNSI (RAIGANJ): Sir, this Bill has been brought forward, if I may submit with all humility, at the direction and desire of the Supreme Court. At the outset, before going to the merits of the Bill, I would like to submit − I hope that everybody here will share this concern of mine − that in the last few years, some kind of a pattern has set in that it is the Judiciary that would have to send a message to the Parliament and then the Parliament would have to respond to that and act accordingly.

Sir, I have all regards for the Judiciary which is one of the main instruments of our Parliamentary democracy. We have the Parliament, the Judiciary, the Executive and, of course, the Press which is the fourth pillar of parliamentary democracy. These four pillars are essential for strengthening the objectives and the holy ideals as enshrined in our Constitution. But it has often been noticed that in matters pertaining to the interest of the people, in matters pertaining to delayed legislative action, the Judiciary has stepped in. I am not questioning the *bona fide* of our judicial institutions, namely the Supreme Court of India, the High Courts and other district courts. They are there primarily to interpret the law and to see whether the law has been violated or not. They are primarily there to interpret the ramifications and complications of legal action and, of course, they are there to interpret the various articles of the Constitution as and when it is required to be done, either in a Writ Bench of a High Court or in a Bench of the Supreme Court. But in the last few years a tendency has developed on the part of the Judiciary to project to the nation as if the Parliament is not acting, the Legislatures are not functioning and the Executive is not performing its duties and that they are the masters who are rescuing the nation from all its ills. Now, if this tendency on the part of the Judiciary is encouraged and if we start subscribing to their views continuously, then I am afraid, the supremacy of the Parliament, the sanctity of the Parliament, the will of the people would be interfered with in a different chamber, which I feel is not a good thing to happen.

Sir, we are not here to question the conduct of any judge. We are not here to criticise any judicial pronouncement, though we have a right to do so. But as I said the other day also while speaking on the other amendment of the Representation of the People Act, if the Parliament as a whole and the Government of the day − be it this Government or some other Government − continue to think that we would not act until the Judiciary intervenes in some matter, then the supremacy of the Parliament would end very soon.

Sir, it is the Parliament which in response to the will of the people, once decided to abolish the privy purse. It is the same Parliament which in response to the wishes of the people -- thought that money first belonged to the poor people of the country and should be put to their benefit − decided to nationalise the banks.

It is the same Judiciary which prevented the Government from doing it saying, 'No, Parliament is not right'. Then, Shrimati Gandhi had chosen the other path and said, 'Let us go to the people and understand how they react to the situation'. People did give her the mandate saying that the Parliament was right. What we do and how we interpret the situation, in response to the will of the people, is right.

Right to property was abolished. The supremacy of the Judiciary once again was proved to be wrong. The supremacy of Parliament was justified. I am not entering into the realm of rivalry, arguments or confrontation. What I

am trying to say is, the Prime Minister of the country, who has to raise issues, is accountable to Parliament. Judiciary, Executive and Parliament − one has to understand their limitations.

With all humility at my command, I would like to ask, who are we? We are the legislators who have come here through the mandate of the people. We legislate on different subjects. We legislate even on issues like the salary of judges and how the Judiciary will function. On certain matters of procedure we legislate. I do not say that MPs and MLAs are lesser, when compared to the members of the Judiciary, in acumen, capacity, or wisdom. However, a judge can say that a particular MP did something wrong. Yes, in a given system one can be wrong. One can also say that in a lot of 100 or 200 judges, four judges may be wrong. But that does not mean that the entire Judiciary is wrong. Similarly, it does not mean the Parliament is wrong. However, there is a tendency that when the Judiciary finds one legislator wrong, it goes on and on and on grilling the system in a manner as to say that the entire system is corrupt and they are the only holy people in the country.

When I was a student, while participating in debates I used to say something that I am reminded of now. I was not very active in parliamentary politics then; I was only a student. I used to say in a humorous way that Lord Brahma, the Creator of the Universe, the *Shrishti Karta* Brahma, created a few great sons and said to them, "Look sons, members of the rest of the humanity can be questioned and tried but no one can question your *bona fides*." Who are those great sons of Brahma? The first one is the judge. Judges of the Supreme Court and High Courts cannot be questioned. If you do that, you commit a sin. The second one is the Election Commission. You cannot question the Election Commission. The third one is the journalist. Journalists cannot be questioned. The fourth one is the Governor/Presiding Officer. They cannot be questioned either. Rest of the humanity can be questioned in whatever manner you want. These are the four unique creations of Lord Brahma which are immune to everything. Rest of the humanity can be made targets, especially so the politicians.

When the Daily Allowance of Members of Parliament was enhanced to Rs.500, we have seen its reaction. How much does this money come to in Dollars? It comes to about ten dollars which is equivalent to the tip offered to a chauffeur in the European Parliament. It becomes big news if a Member of Parliament in India gets 10 dollars a day as Daily Allowance. It is talked about on ten panel discussions on the electronic media. I want to know from the members of the Judiciary and the media whether they have ever visited the residence of a Member of Parliament in the MPs' hostel and seen how many people visit him from the Constituency. People come from the Constituency thinking that since one is a Member of Parliament, his or her child can be admitted in the hospital free of cost; his servant can be given a new job. They say, 'If you cannot do anything, all right, I will go back home, but buy me the railway ticket and give me some food.' How can a Member of Parliament manage this situation? Nobody tries to understand how a Member of Parliament manages his home.

It is not in the British Parliament, not in the German Parliament, not in the Chinese Congress, and not even in the United States Senate that one Member of Parliament represents not less than one million people, or a minimum of 100 thousand people.

Who discusses it? There is a message to the students' community of the country that politicians, ministers or MPs mean 'corrupt'. So, where does the God sit? The God is sitting either in the Supreme Court or the High Court. Those institutions are the only representatives of God. I am not saying it jovially. I am saying it with pain. Over and above, if an institution like the Parliament has always to succumb to the pressure of Judiciary, then where do we go? I hold my own views. I do feel that the Chief Justice Shri Gopal Patnayak has said the right thing. On major issues, where politicians do not come to a settlement, Judiciary steps in. Be it *Cauvery, Ayodhya* or any other matter, if the collective wisdom of the Parliament fails, then the Judiciary steps in. I do agree with it. We should try to articulate and motivate the institutional system of Parliament and the Assemblies where we can discuss and resolve big issues. These days we have developed a technique. If I do not agree and he also does not agree, the only course is to refer the matter either to the Supreme Court or the High Court. This referring of the matter again and again is making the parliamentary system irrelevant.

Therefore, Mr. Deputy-Speaker, Sir, the time has come. Let wisdom prevails to all the political Parties. In terms of our commitment to all political Parties, in terms of our commitment to constitutional democracy, in terms of our commitment to the parliamentary democracy, lesser the matter be referred better it is for the system. More the matters and issues are referred and left in grey areas keeping it pending, I think the judicial activism will grow like a monster.

In our State, a few days ago, we had lawyers' agitation on the stamp fee and the court fee, etc. It is still continuing, I do not want to name the judge. In his private chamber, a comment was made as to why the lawyers do not reduce their fees and take care of the litigants and why they are creating this problem? Yes, it is a good appeal. One of my friends telephoned to me from Calcutta and asked, why did I not want to address the question to the judge and why is he not strict not to give more adjournments on a particular litigation or petition? Delaying tactics mean delaying justice.

There is a criticism of mine that I always criticise the Judiciary. I do not criticise them always. I am saying that it is a good law but criminalisation of politics should be first condemned by whom? I said it the other day and I do not want to repeat it that it should be condemned by the political system. We, the political Parties, out of social, political or group compulsions or due to inner- Party arrangements try to bring someone. Shri Ravi Shankar Prasad is a good friend of mine. He is an outstanding lawyer, a committed Minister, an eligible Minister and a competent debater. Supposing he is given a ticket for his constituency. If his district unit of BJP, or for that matter even my district unit of Congress, is manipulated by *mafia* and it puts pressure on my Leader Sonia ji or on BJP Leader saying - यहां तो इसके बस की बात नहीं है। यहां इसको टिकिट मत दीजिए, इसको देंगे तो हार जाएगा - the Party says, we need the number. We will share your intellectual wisdom in some other capacity. Then he steps in. An atmosphere is built that the system is safe. Out of 26, 16 can be taken care of. चार लोगों को छोड़ दीजिए। यहां ये चार लोग ही ठीक हैं। Irrespective of the Political Party, for years we have been indulging in such practices in various parts of the country and the system, therefore, has become a big question.

Sir, therefore, I feel very strongly that it is not the Bill that is enough. Why is the Congress Party opposing the Bill today? We are opposing it not because your intention is bad but because if you want to decide about transparency, it should be at the first stage. In the election campaign, every candidate first publishes a pamphlet - जनता मुझे पहचानो, मैं कौन हूं। We write all the stories there. Sometimes we glorify ourselves more than Arjuna and Rama. We say how many good things we have done and how much we could not do. All these things are not required. The first transparency should be right at the desk of the Presiding Officer. At the time of filing the nomination papers, I should furnish all the information like my academic qualification, bank balance, profession of my son and daughter, information about my wife's jewellery in the locker, my profession, etc. From day one, let the electorate come to know that he is a candidate and what is his academic brilliance and financial viability. Let them know that he has taken part in the social movement, he has been arrested 19 times for the cause of farmers, five times for the cause of workers, and two times for the cause of party. Let all the things be transparent. Let it be printed by the Election Commission that from Constituency number so and so these are the candidates who belong to RJD or BJP or Congress or Marxist and this is their background. The electorate should know the facts without being questioned by any quarter. We should not depend on media. Sometimes media may exaggerate and they may write what I may not have done or they may over-glorify me. I will say to the electorate that I have submitted everything to the Returning Officer. Let the Returning Officer hang all the information on the walls in the BDOs. I would say that I have deposed before the Election Commission who I am. If anything is questioned, then I will forfeit later on.

You are making a provision by which you will first allow us to be elected and if I am elected, then I will furnish the information to the Presiding Officer, to the Speaker. I cannot agree to this. If we are serious and sincere, let us introduce ourselves fully at the first stage before you go to the electorate. Let the electorate know who I am. Then, if I win, I will give another declaration to the Presiding Officer. That is the objection of the Congress. There is no other objection. We want that this declaration should be at the desk of the Returning Officer. It should be widely known. Let people know very clearly what is the background of Shri Ravi Shankar Prasad or Shri Prabhunath Singh or Dr. Raghuvansh Prasad Singh or anybody else. Let them know what is their total background as per their declaration. Let the electorate know all this at the first stage. Why should I give a chance to my opponents to accuse me unnecessarily for which I am not guilty? Why should I give a chance to media to write about me for which I am not claiming? Let my declaration be clear before the Returning Officer which is the right place. At the time of moving my amendment, I will speak about that issue. Therefore, we draw a difference with the official Bill of the Government.

Sir, Shri Atal Bihari Vajpayee used to sit on this side and I used to sit there. Prof. Hiren Mukherjee was also there at that time. While speaking on some subject which was probably linked with the elections, Shri Atal Bihari Vajpayee said something about this matter. I was trying to collect his speech from the Library but I could not get it. He said that - राजनीति में पारदर्शिता निर्वाचक मंडल के सामने वोट मांगने से पहले दिखाना जरूरी है। So, I feel that transparency should begin at the stage of contesting the election and not after getting elected. Before voting for me, people should know who I am. So, we can file a form saying that this is my bank account number, this is my PAN, this much is my wife's jewellery, this is my property, and all other things. If that is questioned later on by your opponent through a petition in the Supreme Court or the High Court, let the Election Commission try on that declaration. If you do that, then I will tell you that genuinely you would bring transparency in public life and would give more strength to the parliamentary system to avoid all these things. Nobody will be able to campaign with incorrect facts. Besides this, I am adding one more view which is not my Party's view. It is my personal view. It is regarding the appointment of the judiciary. It may be the judge of the District Court or a Munsif Court.

It may be a judge of the High Court also. Please ensure that the declaration of judges are also made in the same spirit either to the *Rashtrapati* or to the Governor, as the case may be. I know many courts where a judge is sitting in one Bench and his wife is practising in another Bench; sometimes, the judge is in one court and his wife may be in another court. Whatever may be the case, if a powerful judge sits in a Bench and his wife is practising in the same court, when all the judges meet in the evening अगर मजाक में भी कह दिया कि मेरी बीवी को जरा देख लेना तो जजमैंट हो ही जाएगा, इसे भी बैन करने के लिए आप कोई तरीका निकालें। Any judge who sits in a Bench, in no other Bench either in his court or in the

domain of that High Court, his son or daughter or wife should practise. This is an additional request. I do not want to take names here. I know many cases of this nature.

Therefore, we strongly feel that the time has come for the Government to become more and more transparent and to give a message to the people that it is the Parliament that is supreme and the supremacy of Parliament starts right from selecting the candidate by the Party in the form of a declaration before the Returning Officer. And then we come to the Presiding Officer. The electorate may ask a question to the partners of the NDA Government and even to us also that you have passed a Bill saying that you are going to declare everything before the Presiding Officers, but we are the people who vote you, so why did you not declare everything before us at the time of filing the nomination? I know it will not be liked by many. I think many of us may have to make sacrifices for this. It does not matter. Let the system be strong and be more transparent. That is the view of the Congress at this hour of crisis when the Parliament's *bona fides* and the politicians' *bona fides* are often being questioned. Therefore, once and for, all we have to close it and revise it by bringing in more transparency.

With these words I oppose the Bill since the issue is not incorporated at the stage of filing of nomination. If our amendment is considered and accepted, then certainly we will extend our support to the Bill.

श्री शिवराज सिंह चौहान (विदिशा) : माननीय उपाध्यक्ष जी, राजनीतिक अपराधीकरण रोकने के लिए और चुनाव सुधार की दृटि से प्रस्तुत किए गए इस क्रान्तिकारी विधेयक का मैं अपनी ओर से और अपनी पार्टी की ओर से समर्थन करता हूं। मुंशी जी की कुछ वेदनाओं से मैं भी सहमत हूं। संसद सर्वोच्च है, विधायिका के अपने अधिकार हैं और न्यायपालिका का अपना कार्य क्षेत्र है। उन्होंने जो बात कही है, मैं सब दोहराना नहीं चाहता लेकिन कहीं न कहीं हमें यह विचार भी करना पड़ेगा कि न्यायपालिका को हस्तक्षेप करने का अवसर आखिर क्यों मिलता है। वे हम जनप्रतिनिधियों की, राजनेताओं की छवि को लेकर भी बड़े चिन्तित थे। लेकिन मैं कहना चाहता हूं कि हम अपने गिरहबां में झांक कर देखें कि ऐसी स्थिति क्यों बनती है। हम लोग इधर बैठे हों या उधर बैठे हों, अगर हम में से कोई अच्छा काम करे तो उधर के लोग कभी नहीं कह सकते कि आपने अच्छा काम किया। सब संकीर्ण स्वार्थों की राजनीति करते हैं, हमारे छोटे मन हो गए हैं। एक-दूसरे को गाली देना - "गली-गली में शोर है, फलाने जी..." - इस ढंग के नारे संसद में लगाते हुए जब जनता देखती है तो हम और किसी को दोाी कैसे ठहराएं। कहीं कोई छोटी सी बात किसी के बारे में पता चल गई तो उसकी तह में जाए बिना - वह घोटाला है, भ्रटाचारी है, चोर है - आखिर यह कौन करता है। हम लोग ही ऐसा करते हैं। राजनीतिक अपराधीकरण रोकना चाहिए।

एक जमाना था जब अपराधी पुलिस से, प्रशासन से और राजनेताओं से डरते थे। फिर धीरे-धीरे वह दिन भी आया जब राजनेता अपराधियों का इस्तेमाल चुनाव जीतने के लिए करने लगे और उसके बदले में उन्हें राजनैतिक संरक्षण दिया जाने लगा। जब अपराधी चुनाव जिताने में समृद्ध सिद्ध होने लगे तो उनके मन में यह भाव भी आया कि जब मैं चुनाव जिता सकता हूं तो खुद चुनाव क्यों नहीं जीत सकता। हमें स्वीकार करना पड़ेगा कि मनी पावर और मसल पावर का चुनाव में धीरे-धीरे इस्तेमाल होने लगा। हम स्वीकार करें या नहीं करें, कई जगह फर्जी वोटिंग होती है या नहीं, बूथ कैपचरिंग होती है या नहीं। अपराधियों को महिमा मंडित करने का काम किसने किया है। मैं किसी एक राजनैतिक दल की बात नहीं करता लेकिन हम गहराई से विचार करके देखें तो कहीं न कहीं हम सब इसमें दोाी नजर आते हैं।

इस सरकार ने राजनीति का अपराधीकरण रोकने के लिए एक अच्छी शुरूआत की है, इसके लिए मैं इस सरकार को ह्रदय से बधाई देना चाहता हूं। यह प्रारम्भ है, शुरूआत है, यह बात सही है कि अभी और कई कदम उठाये जाने की आवश्यकता है। लेकिन कानून तोड़ने वाले कानून बनाने वाले न बन जायें, इस बात के लिए हम सब को जो प्रावधान करने आवश्यक हैं, वे प्रावधान करने पड़ेंगे। इस बिल में जो प्रावधान किये गये हैं, अगर पहले से ही लोगों को जानकारी रहे, मैं मुंशी जी की इस बात से सहमत हूं कि उसकी पृठभूमि क्या है, शैक्षणिक योग्यता क्या है, हमारे पास पैसा कितना है, सम्पत्ति कितनी है। अगर कोई आपराधिक प्रकरण हम पर चले हैं तो वे कितने चले हैं, यह जनता को जानने का अधिकार है और निश्चित रूप से हमें यह जानकारी रिटर्निंग आफिसर के सामने देनी पड़ेगी, यह प्रावधान इस बिल में किया गया है।

दूसरी बात मैं कहना चाहता हूं कि यहां पर पैसे की, धन की, सम्पत्ति की बात की जा रही थी। यह बात सही है कि पूरे समाज में आज जनप्रतिनिधियों की जो छवि बनी है, उसके कारण भी कुछ लोग हैं। जब वे चुनाव जीतकर आते हैं तो स्थिति यह होती है कि घर में कुछ नहीं होता, लेकिन उसके कुछ दिन के बाद जब रंग-ढंग बदलते हैं तो धीरे-धीरे उस सब के बारे में समाज के मन में भी यह धारणा बैठती है। गलती कुछ लोग करते होंगे, भ्रट कुछ लोग होते होंगे, लेकिन उसके कारण आम जनमानस में यह धारणा फैलती है कि जैसे सब के सब भ्रटाचारी हैं, सब के सब अपराधी हैं। इसलिए चुनाव के तत्काल बाद एक निश्चित समयावधि के अन्दर उसकी जो भी सम्पत्ति हो, चाहे चल सम्पत्ति हो या अचल सम्पत्ति हो, उस सब की जानकारी से जनता को कम से कम तुलना करने का एक आधार प्राप्त होगा कि हम पहले क्या थे और बाद में क्या हो गये। इसके कारण कम से कम यह बात होगी कि जो स्वच्छ छवि वाले लोग हैं, जो भ्रट नहीं हैं, क्योंकि ईमानदार छवि के भी राजनेता हैं, सब चोर नहीं हैं, सब भ्रट नहीं हैं, सब धान 22 पसेरी नहीं हैं। कुछ हैं, जिनके कारण छवि खराब हुई है, यह स्वीकार करने में हमें हिचक नहीं होनी चाहिए और अगर हम हिचकेंगे तो मैं समझता हूं कि हम भी अपराध करेंगे, पाप करेंगे। यह सच्चाई है कि अपराधी भी जीतकर आते हैं। यह स्वीकार करने में भी कोई हिचक नहीं होनी चाहिए, इसलिए यह जो बिल लाया गया है, इस दृटि से यह बड़ा उपयोगी सिद्ध होगा।

मैं दो बातें और कहना चाहता हूं। एक तो मेरा निवेदन यह है और मैं यह मानता हूं कि भ्रटाचार की अगर कोई बुनियाद कहीं है तो वे महंगे चुनाव हैं। चुनाव इतने महंगे हो गये हैं, सभी राजनैतिक दलों के लोग जानते हैं कि अपने बलबूते पर चुनाव लड़ना कभी सम्भव नहीं होता और इसलिए चुनाव का खर्चा लेने के लिए या तो बिजनेस हाउस के पास लोग जाते हैं, उद्योगपतियों के पास लोग जाते हैं और कई लोग जिन्होंने गलत तरीके से धन और सम्पत्ति अर्जित की है, उनके पास भी जाते हैं। वहां से धन लिया जाता है, पैसा लिया जाता है। जब उनके पैसे पर हम चुनाव लड़ते हैं तो चुनाव लड़ने के बाद जनहित बाद में देखेंगे, जनकल्याण नहीं, राद्रहित नहीं, दरिद्रनारायण की सेवा नहीं, पहले उनकी सेवा करने की तरफ ध्यान ज्यादा जायेगा। इसलिए दिनेश गोस्वामी कमेटी की जो चुनाव सुधारों की रिपोर्ट है, उसमें भी कई तरह की बातें हैं। मैं उसमें विस्तार से चर्चा नहीं करना चाहता, लेकिन क्या स्टेट फंडिंग की बात हो सकती है? स्टेट फंडिंग की बात अगर हो जाये, कुछ न्यूनतम खर्चे चुनाव के लिए तय किये जायें कि वे चुनाव घोाणा-पत्र प्रकाशित करें, एक उसका पोस्टर निकल जाये, उसकी एक सभा हो जाये, चुनाव प्रचार के लिए जो न्यूनतम आवश्यकताएं हैं, उनकी व्यवस्था स्टेट करे, राज्य करे, सरकार करे। इसके अलावा और कोई खर्चा प्रत्याशी नहीं करेगा, यह प्रतिबन्ध अगर लगा दिया जाये, क्योंकि इसी तरह एक प्रत्याशी अगर खर्चा करता है तो उसका मुकाबला करने के लिए दूसरा भी खर्च करता है और यह बात सही है कि जिस ढंग से खर्चे होते हैं, कई जगह तो यह स्थिति बन जाती है, हम लोग देखते हैं कि पैसा बांटा जाता है और शराब बांटने जैसी घटनाएं भी होती हैं। इस सब को सख्ती से रोकने की आ वश्यकता है, इसलिए मैं स्टेट फंडिंग का निवेदन कर रहा हूं।

एक अंतिम बात कहकर मैं अपनी बात समाप्त करूंगा। मैं माननीय मंत्री जी और सरकार से निवेदन करता हूं कि सब राजनैतिक दलों में एक आमसहमति बनाई जाये कि एक साल में ही सारे चुनाव हो जायें। लोक सभा के चुनाव हों, विधान सभा के चुनाव हों, पंचायतों के चुनाव हों या नगरपालिकाओं के चुनाव हों, सारे के सारे चुनाव क्या एक वर्ा में नहीं हो सकते? सभी राजनैतिक दल पांचों साल अगले चुनाव की तैयारी करते रहते हैं। हम अभी गुजरात के चुनाव से निपटे हैं, अब हिमाचल का चुनाव होना है। हिमाचल के चुनाव से निपटेंगे तो मध्य प्रदेश, छत्तीसगढ़, दिल्ली और बाकी राज्यों के चुनाव आने हैं और उसके कारण हम सभी वोट बैंक की राजनीति में लगे रहते हैं। उससे विकास पूरी तरह से अवरुद्ध होता है, प्रभावित होता है। अगर पांच साल में एक बार सारे चुनाव करा दिये जायें। केवल एक साल चुनाव का साल होगा तो चार वर्ा देश के विकास के लिए हम निर्बाध रूप से काम कर सकेंगे। अगर इस पर कोई सहमति बने तो बहुत अच्छा होगा। रास्ते निकाले जा सकते हैं, ऐसा नहीं है कि रास्ते नहीं निकाले जा सकते।

मैं समझता हूं कि अब हम देश के विकास और कल्याण के लिए एक बड़ा काम करेंगे। मंत्री जी जो क्रांतिकारी बिल लाए हैं, मैं उसका समर्थन करते हुए अपनी बात समाप्त करता हूं।

SHRI SOMNATH CHATTERJEE (BOLPUR): Mr. Deputy-Speaker Sir, it has been a process for a long time to try to, what one may say, reform the electoral system in this country. From 1971, I remember that as a new Member of this House, I had the privilege of being a member of a committee which was set up by the then hon. Speaker to go into the reforms of electoral laws. Shri Atal Bihari Vajpayee and Shri L.K. Advani were also members of that Committee. The Chairman was Shri Jagannath Rao, a very respected Member of the House. Most of the recommendations were unanimous. Probably, my good friend, the Minister, will try to find this from the archives or from somewhere, use a duster to make it catch holdable, if there is such an expression. I do not know where it is. But I have got a copy of it still. I am sure the Minister has not got them. It was followed by some non-official committees like Tarkunde Committee, headed by a respected lawyer. Then a committee was set up by Shri Jayaprakashji. Recently, Shri Dinesh Goswami's Committee Report attracted a lot of attention. Shri Advani was also a member in it representing the BJP. I believe that almost all the recommendations were unanimous. A deep study was made and it was fairly comprehensive. The United Front Government went, the Congress Government came and the BJP or the NDA concoction has come now. But nothing has been done.

Then, we have all been talking about if not totally abolishing at least minimising and reducing the role of money in the elections. So, all our friends are aware and sometimes more as a reminiscence that this Parliament has been spending time over the years from time to time. A new committee was formed after Shri Advani became the Home Minister regarding State funding on which everybody has been expressing his views. Again, a unanimous Report was there. I do not know whether Prof. Vijay Kumar Malhotra is present here or not. He was a member in it and many other distinguished Members of Parliament were also Members in it. I am told that the other day, Shri Advani, in his intervention, said that some sort of a Bill has been prepared and maybe, it is before the Standing Committee. But where is the urgency which was there about three-and-a-half years back? Now, it has come again. It has become really necessitated by certain judicial pronouncements followed by the Election Commission's response to that. That is the present Bill. I take it like that.

Now it has been thought that if one makes an affidavit, he becomes - I do not know what he becomes - I suppose, a *brahmachari.* I have doubts about *brahmacharis* these days. I do not know what sort of species they are. I also do not know, in the next elections, how many saffronites would come to address us here. Probably, one of the fashionable Ministers that we have here, sartorially impeccable, Shri Pramod Mahajan will have a set of saffron dress. I hope that day will not come. That risk is there. He wants to exploit saffron.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF COMMUNICATIONS AND INFORMATION TECHNOLOGY (SHRI PRAMOD MAHAJAN): Saffron is part of our national flag.

SHRI SOMNATH CHATTERJEE : So, you are content with that. At least tell some of your friends here about this.

It is thought that if an affidavit is filed, I become an angel. Then no more worry and no botheration. I become a *shuddh* man. There will be no criminalisation, no money power and no muscle power. I am very sorry to say this. Many hon. Members will not agree with me here and many friends outside will not agree with me.

None of the judges has ever contested an election.

SHRI PRIYA RANJAN DASMUNSI ; After retirement, they want to come to Rajya Sabha.

SHRI PRAMOD MAHAJAN: Priya Da brings them.

SHRI SOMNATH CHATTERJEE : Sir, I am not meaning any disrespect to them. I belong to their fraternity. Those who are not contesting election, are giving others advice as to how to contest election. This is the problem. There is a copy of the affidavit.

Mr. Deputy-Speaker, Sir, you have got a pocket borough constituency and you always get elected. I do not know. I think there is hardly any contest there in your constituency.

MR. DEPUTY-SPEAKER: It is very keenly contested.

SHRI SOMNATH CHATTERJEE : I hope, you properly manage to win.

I have got twelve lakh voters. If a copy of the affidavit is hung up in the Notice Board of the Office of the Electoral Returning Officer, how many will read that? I have seen, people in jail are coming back here and are being elected with huge margins. Well-known crooks are being re-elected. People with long list of criminal cases are happily raising their voices here against criminalisation. Is this the short-cut method? Is there a short-cut method? Just give one affidavit and all problems are solved! Unfortunately, even our Judiciary thinks that you must have some money, some assets and you must be somewhat educated. What is this condescension in a country where you keep people uneducated illiterate because of lack of resources. Are they citizens of India or not? Will they have the right to participate in the democratic process or not? Supposing the electorate is told in an affidavit that I am an illiterate, am I entitled to be considered to be fit or not for being elected to the Legislature? Why is this so? What has my financial resources got to do with it? If I am an honest rich, am I disqualified? How does one find out whether one is honest or dishonest by looking at an affidavit? I want to make it clear. I know a lot of criticisms will be made of my speech. I am not trying to absolve any criminal or any crook. But do not apply standards which this country cannot sustain. Is it a fault of anybody, who is illiterate? Are any parents happy if their sons and daughters have to work to earn their livelihood and not to go to schools for lack of resources? What is this condescension? What has it got to do with suitability? I would like to have an honest illiterate than a Ph.D crook. The country has to make a choice. Can there be a comparison between the two?

That is what we say. It is a political process. We want that the parties should have well-defined objectives, manifestos. They must tell the people as to what their policies and programmes are. What has happened only the other day in one of the leading States of this country? I shudder to think whether any affidavit would have stopped it. I am sure that many of my good friends from that side would agree with me when I say this. Even the Prime Minister of India, for public consumption and to keep Shri Togadia and others happy, will gloat over the result. But in his heart of hearts, he must be worried. This is not the way to win an election. Therefore, our submission is very clear. We want elimination of corruption. We want total elimination of criminalisation of politics. You cannot stop this by having opportunistic alliances like this....(*Interruptions*)What is binding Shri Vaiko and Shri I.D. Swamy? What is there? My friends, even you cannot protect him. You are such a Home Minister. At the same time, you cannot protect your colleague. What is this? Therefore, merely this cosmetic decision will not help.

Sir, many editorials have come. Many well-known academicians have written about it. Many well-meaning persons have written about it whom I respect. We have seen in the history of this country that this specific issue came before the Constituent Assembly. The issue was whether educational qualifications should be provided for a candidate in this country when he contests an election. The Constituent Assembly expressly rejected it.

Regarding the possession of assets, we will have to go back to the British days when the limited franchise was there on the basis of properties and educational qualifications. *Zamindars* and land racketeers were the voters. They were controlling the so-called Panchayats then. Everybody knows about it. Those views were rejected. I am a party to the decision for declaring the assets. My Party has also accepted the position that after the declaration of results, the winning candidate must declare his assets. The question of misuse comes after you are elected. The question whether you are misusing your elected position as a Member of Parliament or a Member of Legislative Assembly or a Minister is relevant. Therefore, in the Ethics Committee, it was discussed. I am a party to the decision. Shri Chandra Shekhar is the Chairman of that Committee. All parties are represented there. The Rajya Sabha has done it and also, we have also done it. We have a separate Committee. We have provided that it would be filed with the hon. Speaker. Whenever the hon. Speaker feels that there is a case for disclosure of inormation relating to assets, we will disclose it. We are leaving it to the hon. Speaker, the Presiding Officer of the House. We are not against it. I am sure that those who are in this House, if they were to contest the Lok Sabha elections, know that voters are not influenced by the affidavit that is hanging here. I hope the voters will be more interested in the policies, principles, manifestos, integrity and honesty of the candidate. His public life will establish it. The affidavit cannot establish the honesty and integrity of an individual or a candidate. He has to prove that. He has to be acceptable to the people by his own conduct and by his party's programmes and policies. The choice of a party or a candidate in itself should be treated as an honour if the party is a principled party.

Therefore, if the people approve of that party's policies and programmes they will vote for that party. We are having the 'first-past-the-post' system, namely the simple majority, in our country. Sometimes, that will not give a proper verdict in the election because one may get elected with even 30 to 35 per cent of the votes. I understand that this had happened in Godda only the other day.

So far as our party is concerned, we have recommended that there should be, at least, a Partial List system and I have got a good supporter in Shri L.K. Advani for this, unless he has changed his mind after the propagation of *Hindutva*. He has been a strong proponent of this system. I do not know how far *Moditva* has influenced him. So, we want to make our party's position clear that we have to resist the entry of criminals into politics. The simple solution for this is that no party should give nomination to anybody who is anyhow tainted. Why is this not being

done? I can claim credit for my party and the Left Parties that we have not given nomination to any such person. Let them point out even one case.

Sir, we can solve our problems substantially − not all − by making an announcement while standing here that we would not give nomination to anybody with a criminal record. I would request the Congress Party and all the large parties here not to give nomination even to persons against whom any doubt is there about his honesty and about his participation in crime. If we make that mistake, we should suffer. The people will give us a lesson. If that unfortunate thing ever happens in my party, I say here, he should suffer, he should lose. That is more important. What is important is commitment to certain principles, policies and objectives than mere cosmetic attempts.

Sir, earlier there was a recommendation that even cases against them have to be stated. There are so many false cases. I do not know how many such cases are there. I am not a criminal lawyer, but, I gather, my young friend has a lot of experience. Let him tell me how many prosecutions succeed, because I have no personal knowledge about it. This country is facing such an enormous problem because of frivolous writ petitions and not even 10 per cent of writ petitions succeed in this country. But our court records, dockets are full and we are going down under the weight of this.

Similarly, just because there is some allegation or some charge sheet, you have to have a record of the same. There are many people in this country, well-known political personalities who have suffered due to false cases, charges, imprisonment etc. and many of them do not even remember that. Somebody was telling me that Shri N.D. Tiwari had that problem. He has been in the freedom movement for a long time and I am sure he had to go to jail many times for violation of Section 144 etc. But somebody told me that he had to obtain the records of the last 30 to 40 years. Where does one get these things? They say that a mere charge sheet will be sufficient. How can it be so? Therefore, if anybody is convicted, then he should suffer. The other day, we supported the other Bill because it was based on conviction.

15.00 hrs.

Of course, I said, it was shameful that even we had to mention the Prevention of Sati Act. This is the position in this country. Therefore, we are against that. There is no dearth of examples of this.

Then, I have to mention the details about assets and liabilities due to financial institutions. We find Ministers making a beeline to give receptions and also attend receptions in favour of some newly elected Members of Parliament, probably, whose greatest credit is large NPAs that they have. What is this mockery? Yes. if they given details of the dues of financial institutions, then, all your friends will be disqualified. Then, education should be mentioned. I do not mind giving all this. But the question is that let this not be a method of harassment.

The other point is very important. What is its purpose? Will this authorise the Returning Officer to disqualify a candidate? Then, there will be havoc. It is well established in this country that wrongful rejection of a nomination paper cannot be challenged - if I have not forgotten my law − except by an election petition. Then, one has to wait for the election to be over. This will make them all-powerful. There may be personal likes and dislikes. That will happen. This power cannot be conferred by merely an executive order to reject nomination papers. Therefore, our view is very clear that to make elections free and fair, we have to control money power and muscle power and that cannot be controlled through affidavits. We have to stop taking recourse to *thugs* and mafias during the election which cannot be done through affidavits. It has to be on the basis of principled politics. Unfortunately, that is becoming less and less evident these days. In all these combinations, the ideology is becoming irrelevant. Shri Advani, who is very happy these days, has said it. I have said in his presence. He has never denied his statement that ideology has become irrelevant in coalition politics. Therefore, ideology has no relevance. Therefore, somehow or other, by hook or by crook − as I say, more by crook than by hook − you come to power and then continue.

There are other many important things which have to be done. Please open up those unanimous reports, try to implement them, provide some State funding. At least, the list system may somewhat partially reduce this money power. We have said that and we have been requesting for that.

The other thing I want to make very very clear is this. I do not want that the Parliament should lose its authority to decide. Legislation is the power of Parliament. The only authority in this country that can legislate is the Parliament. Whether right or wrong, that is there. That is the very crux of our Constitution. Nowadays we are being advised what should be the law. What is public interest? The public representatives do not understand it. Only those who do not represent the people, those who have no accountability to the people, are supposed to know best. We, have to give account of our activities almost daily. In this old age, I have to go to my constituency, at least, to say that I have not forgotten them. They also want to know. We are getting hundreds of letters. Some continuous accountability of a Member of Parliament is there.

Of course, I do not say about that because I do not know what the Rajya Sabha Members do. However, I respect all

of them. They are elected Members of Rajya Sabha in terms of the Constitution. Therefore, I respect them, although Shri Jana Krishnamurthy and Shri Arun Jaitley have to go to Gujarat to vote. They are good friends of us. I do not say anything more because they are very celebrated voters of Gujarat to come here. If that is so, I would have personally felt that that was not proper. Therefore, with all my respect to the judiciary, with all my respect to many well known academicians, editors of newspapers and everybody, who hold different opinions, which I also respect, but standing here I must assert the supremacy of the Parliament to legislate on behalf of the people. We cannot give this up.

Therefore, when the all-Party Meeting was called, we said, 'yes, on this issue, we are with you.' We are fighting and we shall continue to fight until you fail, totally decimated. We shall continue to fight. I may not be there, but my younger friends will be there - हम तो मर जाएंगे, ज्यादा उम्र नहीं है। But this fight will go on.

But here sometimes, this Government behaves sensibly. That was a rare occasion. They said, 'very well, what is the opinion of Opposition?' We said, 'yes'. Congress Party says − I respect them, that is their view, they are entitled to hold that view − that the financial assets should be disclosed and from the next day everybody will be punished. I do not agree with that. But they are entitled to hold their view. There can be always difference of opinion. Therefore, we said, 'no, we restore the Parliamentary supremacy. We see as much as possible that at least the people should know.' To what extent that is possible for them to know, I do not know.

Everybody has several assembly constituencies. We cannot even cover the whole area. Even 365 days multiplied by 5 years are not sufficient. In five years, you cannot go to every village. Has anybody gone? You cannot do that. Then who will read this? You are decrying people, you are showing them contempt, that if they are illiterate, they are not fully read, but they will read your English affidavits or Hindi affidavits or wrongly translated affidavits. This is expected. It is totally unreal.

Therefore, in spite of my weaknesses for other systems, I have developed some benefit out of that. I have grown with that legal system. I feel that this law is in the right direction. After a long time, this Government has brought some sensible legislation. We support it. Probably here also, they were justified in issuing an Ordinance, for a rare occasion when an Ordinance was justified. From that point of view, we support this Bill.

But I hope and demand that the Government should bring a comprehensive legislation, taking into account the important reports and recommendations of the Committees so that at least in one matter there may be unanimity. Let us not enter the portals of this House with question mark. That can be done, if the parties follow a principled stand of only giving nomination to those who have served the people and not who will serve the people by operating in the corridors of North-Block and South-Block.

डॉ. रघुवंश प्रसाद सिंह (वैशाली) : उपाध्यक्ष महोदय, यह विधेयक ऑर्डिनैन्स के रूप में लागू है और अब यह बिल पास कराने के लिए यहां लाए हैं। इस बिल से सभी राजनीतिक दलों और संसद की बदनामी होने वाली है। देश भर में चर्चा है और सभी लोग इस बात को मानते हैं कि राजनीति में अपराधी हैं, वहां अपराधीकरण हो गया और संसद और विधान सभाओं में इतने दागी और बलात्कारी नेता हैं। देश भर के लोग कह रहे हैं और हम भी मान रहे हैं कि आज रंग-बिरंगे हिन्यिस क्राइम वाले लोग डाकू बन रहे हैं। हमारे यहां कहावत है कि "साई के नाम जनईछी, हें हें, करइछी" - इसका मतलब यह हुआ कि हमारी संस्कृति के अनुसार महिलाएं अपने हसबैंड की बहुत रैस्पैक्ट करती हैं लेकिन उसका नाम नहीं पुकारती हैं क्योंकि यह हमारी संस्कृति के खिलाफ है। वह उसे " ऐजी, ओजी" कह कर बुलाती हैं। हालांकि पत्नी अपने पति का नाम जानती है लेकिन उसका नाम बोलती नहीं है। सभी लोग यह महसूस करते हैं कि राजनीति में अपराधीकरण को रोकना चाहिए। सुप्रीम कोर्ट में एक केस गया और वहां उसकी सुनवाई हुई। उसमें सरकार की तरफ से और इधर-उधर से एक से एक विद्वान वकील लोगों ने बहस की और सुप्रीम कोर्ट ने फैसला दिया। सुप्रीम कोर्ट को लगा कि राजनीति में अपराधीकरण है और इसे रोकना चाहिए। उसमें पांच बातें हैं - क्या प्रत्याशी यजा याफ्ता है, क्या उसे सजा हो चुकी है, क्या वह किसी मामले में सजा काट चुका है या बरी किया जा चुका है, नामांकन से 6 महीने पहले क्या प्रत्याशी किसी ऐसे मामले में आरोपी बना दिया गया जिस में दो या उससे अधिक साल की सजा हुई है, प्रत्याशी के पति या पत्नी या उस पर निर्भर लोगों की चल या अचल सम्पत्ति या बैंक खाते की क्या स्थिति है, क्या उसकी देनदारियां हैं, क्या उस पर किसी सार्वजनिक या सरकारी वित्तीय संस्थान की देनदारियां हैं और प्रत्याशी की शैक्षणिक योग्यता क्या है? इस बारे में सुप्रीम कोर्ट ने चुनाव आयोग को निर्देश दे दिया। चुनाव आयोग ने सरकार से पूछा, लेकिन सरकार के लोगों ने जवाब नहीं दिया। चुनाव आयोग ने उसे लागू कर दिया। सरकार उसे लागू करने के लिए अध्यादेश ले आई। इसकी बड़ी आलोचना हुई कि ऐसा कोर्ट ने क्यों कहा, कोर्ट का काम कानून बनाने का नहीं है। उसका काम इंटरप्रिटेशन करने का है। यह काम संसद का है जो संवैधानिक है। संविधान के मुताबिक संसद और सरकार कानून नहीं बनाए तो क्या लोकतंत्र में केवल एक की जिम्मेदारी है? लोकतंत्र को बचाने की, मजबूत करने की सब की जिम्मेदारी है। संसद एक सर्वोच्च संस्था है। जब एक जज पकड़ा गया तो उसे संसद ने छोड़ दिया। क्या ऐसा कोई कलंक मिटा सकता है? इसमें राजनीतिक दल का स्वार्थ होता है तो न्याय भी छूट जाता है, देश भक्ति घट जाती है, समाज को भी भूला दिया जाता है और देश को भी भूला दिया जाता है। यह जनतंत्र के लिए बहुत बड़ा खतरा है। इस पर सब लोग विचार करें। दलबंदी या गुटबंदी में जब यह बात होती है तब राजनीतिक दल के लोगों को चाहिए कि वे अपराधियों को टिकट न दें। जब राजनीतिक दलों को लगता है कि कोई भला आदमी जीत नहीं सकता है, डाकू जीत जाएगा तो वे डाकू को टिकट दे देते हैं। हम इस बात पर आत्मनिरीक्षण करेंगे या नहीं? यह सुनिश्चित होना चाहिए। चाहे कोई कितना बड़ा डाकू हो, उसे टिकट दे दिया जाता है। क्या इस पर विचार करने की जरूरत है या नहीं? आप इस तरह का जो विधेयक लाए हैं, इससे तमाम लोगों में यह बात आएगी कि तमाम राजनीतिक दल वाले लोग मिल गए। इस पर सब कहेंगे कि राजनीतिक अपराधीकरण खत्म हो।

यह भी कहेंगे कि जब सुप्रीम कोर्ट कह रही थी कि इसको रोकना है - लेकिन अपराधीकरण को रोकने वाला कोई नहीं है। इससे भले आदमी का कोर्ट केस गड़बड़ाता जा रहा है। हमें याद है कि जे.पी. मूवमेंट के दौरान न जाने कितने रूल लगे हुये थे। उनमें डी.आई.आर.,मीसा थे और हम लोग भी उसमें बंद किये गये थे। हमने यह कानून माना नहीं और इसे तोड़ दिया। सारे केसों के रिकार्ड जुटाकर कोर्ट में रिटर्निंग आफिसर यह कागज दाखिल कर देगा और उसमें अपराधी निकल जायेगा। इसमें खतरा है। अगर किसी में यह आरोपित है कि उसको चुनाव से वंचित कर दिया जाये तो इसमें भी खतरा है। सरकारी पार्टी के लोग खिलाफ पार्टी के विरुद्ध दो केस

बना लेंगे , उसमें कोई बड़ी बात नहीं है।

उपाध्यक्ष जी, हम देख रहे हैं कि कश्मीर टाइम्स के एक पत्रकार जिलानी हैं जिनके लिये कहा गया कि वे आतंकवादी हैं। उनके दो छोटे-छोटे बच्चे हैं। उपाध्यक्ष महोदय, सरकार से कहा जाये कि इसके लिये सबूत लाया जाये। एक पत्रिका का पन्ना मिल गया लेकिन डी. जी. मिलिट्री इंटैलीजेंस ने कहा कि इससे सिक्यूरिटी का मामला नहीं बनता है, ये कागजात ऐसे नहीं हैं लेकिन गृह विभाग ने मिलिट्री को अपनी बात लिखकर दी कि इसमें सिक्यूरिटी का खतरा है। इस प्रकार उस केस में श्री जिलानी को बंद रखा है। इस सदन के माननीय सदस्य श्री वाइको ने पोटो का समर्थन किया था, वे जेल में बंद हैं। इस तरह राजनैतिक प्रतिशोध की भावना है जिससे खतरा है। हम लोगों को इस पर गहन चिन्तन और मनन किए जाने की जरूरत है।

उपाध्यक्ष महोदय, सरकार भ्रटाचार से संबंधित एक विधेयक दबाकर बैठी हुई है। इस पर बार-बार पार्लियामेंट में सरकार की चिट्ठी जा रही है। लोकपाल का बिल राष्ट्रपति के पास भेजने से रुका हुआ है लेकिन सरकार उस बिल को निकलने ही नहीं दे रही है। इसमें सभी को सम्पति का विवरण देना होगा लेकिन सरकार चुनाव के बाद करेगी कि जितने बड़े नेता हैं, आफिसर्स हैं, वे अपनी सम्पति का विवरण दें। सरकार सनाथन कमेटी की रिपोर्ट पर बैठी हुई है। कुछ मंत्री लोगों के पास ज्यादा धन नहीं है लेकिन उनका रिकार्ड दाखिल किया है। इससे मालूम होता है कि वे गरीबी रेखा के नीचे के लोग हैं। मेरा सरकार से आग्रह है कि वह सब कागज दिख वाये। इसलिये भ्रटाचार की जड़ तीन जगह पर है। जहां आमद से ज्यादा खर्च है, वहां भ्रटाचार है। इस जांच-पड़ताल में डाकू भी निकल सकता है और भला आदमी भी आ सकता है। अगर नीचे वाली कोर्ट किसी आदमी को सजा देती है तो हाई कोर्ट उसे छोड़ देता है और अगर हाई कोर्ट उसे सजा देता है, सुप्रीम कोर्ट उसे छोड़ सकता है। इससे तो केस में उलझन की स्थिति हो गई। इस समय सरकार जो विधेयक लेकर आई है, वह नहीं चाहती है। जब आयोग ने सरकार से पूछा और सुप्रीम कोर्ट ने कहा तो सरकारी वकील सोलिस्टर जनरल ने जाकर बहस की। कोर्ट ने कहा कि सरकार अब तक क्यों सो रही है। कोर्ट कौन कानून बना रही है लेकिन सरकार और संसद ने समय पर कानून नहीं बनाया, जो कुछ किया है, वह अपनी समझ से किया है।

हम सुप्रीम कोर्ट की आलोचना करने वाले नहीं हैं। क्योंकि आज हर कोई कह रहा है कि राजनीति का अपराधीकरण हो रहा है, इस अपराधीकरण को रोका जाए। कैसे रोका जाए। यह ठीक है जूरीसप्रूडैन्स इज दि आई ऑफ ला। लोग कहते हैं कि जूरिसप्रूडैन्स में कोई कसूरवार छूट जाए तो उतनी खराबी नहीं है, जितनी बेकसूर आदमी को सजा होने में खराबी है। यह जूरिसप्रूडैन्स जानने वाले लोग हमें बताते हैं कि यह कानून कहता है और आई ऑफ लॉ यह बताती है। उस हिसाब से यह ठीक है कि बेकसूर लोगों को हेरा-फेरी करके लोग फंसा सकते हैं। इसलिए बहुत उलझनपूर्ण स्थिति है। इसलिए इस विधेयक के पास होने से तमाम राजनीतिक दलों और संसद को शिकायत होने की संभावना हमें लगती है, इससे बड़ी उलझन होगी। इस उलझन की स्थिति को पार करने के लिए सब लोगों को बताया जा रहा है कि राजनीतिक लोग जुटे थे और सबको बताया गया कि कहां से सबूत आदि देंगे, झंझट में पड़ जायेंगे। इसलिए कहा कि सब लोगों ने सहमति दे दी है, इसलिए यह पास हो जायेगा। लेकिन हम सरकार को सावधान करते हैं कि इसमें मजबूत इच्छाशक्ति की जरूरत है, इस पर कठोर निर्णय लेने की जरूरत है जिससे कि राजनीति का अपराधीकरण रुके।

उपाध्यक्ष महोदय, भ्रटाचार में नैक्सस है। वोहरा कमेटी की रिपोर्ट को सरकार ने क्यों रोक रखा है। सरकार उसे प्रकाशित क्यों नहीं करती, क्यों नहीं उस पर कार्रवाई करती। उसमें कहा गया है कि राजनीतिज्ञ, अपराधी और अफसर इन तीनों का नैक्सस है। इसका परिणाम समाज और भले आदमी को भोगना पड़ेगा। प्लेटो और ग्रीस का यह सिद्धांत चल रहा है। महात्मा गांधी ने कहा था कि यदि समाज में अच्छे लोग नहीं चुने जायेंगे तो गड़बड़ वाले लोग आ जायेंगे और यदि गड़बड़ वाले लोग आ जायेंगे तो बोये पेड़ बबूल के तो आम कहां से खाय। इसलिए चुनाव प्रणाली को दुरुस्त करने के लिए सरकार काम्प्रीहैन्सिव बिल क्यों नहीं ला रही है। दिनेश गोस्वामी कमेटी और इंद्रजीत गुप्ता कमेटी पर सरकार चुप क्यों बैठी है। उनकी रिपोर्ट क्यों नहीं आ रही है। चुनाव सुधार के संबंध में हमारा एक विधेयक था, जिसमें कहा गया था कि लोग कहते हैं कि मसल पावर, मैनपावर, कैश, कास्ट, क्रिमिनल और कम्युनल आज इन चार बैड 'सी' का सबका बोलबाला है और इनके कारण चुनावों का गलत परिणाम आता है। इसलिए इन सब बातों परâ€¦ (व्यवधान)

श्री सुरेश रामराव जाधव (परभनी) : बिहार का बताइये।

डॉ. रघुवंश प्रसाद सिंह : बिहार में 1995 में श्री टी.एन.शेान ने चुनाव कराया था। वहां सारे बूथों पर पैरा मिलिट्री फोर्सेज तैनात रही थीं। बाकी दलों की जमानत वहां जब्त हो गई थी। मैं वही चुनाव चाहता हूं। यदि हिम्मत है तो सरकार कानून लाये। हमने विधेयक पास किया था, सरकार ने उसकी खिलाफत की। इसलिए मेरा कहना है कि चुनाव साफ-सुथरा हो। चुनाव में एक बूथ पर कम से कम चार प्रिसाइडिंग अफसर और पोलिंग अफसर रहते हैं, ऐसा कानून बना हुआ है। उसके साथ यह कानून भी बने कि छः-सात पैरा मिलिट्री फोर्सेज पांच-पांच के दो ग्रुप में वहां घूमे। ताकि लोगों को वोट डालने से रोका न जा सके और बूथों पर कब्जा भी न हो। चुनाव में मैनपावर और मसलपावर का कहीं इस्तेमाल न हो। इस तरह का विधेयक सरकार लाये। 1995 में श्री टी.एन.शेान ने बिहार असैम्बली का जो चुनाव कराया था, वह एक रिकार्ड है। कोई नहीं कह सकता कि उसमें एक वोट भी बोगस पड़ा हो या कोई जबरदस्ती हुई हो। सरकार ऐसा कानून क्यों नहीं ला रही है। पैरा मिलिट्री फोर्सेज बहुत कम है। पिक एंड चूज करने में वहां भारी बेईमानी की संभावना रहती है। होता यह है कि मनोनुकूल अफसर को वहां पोस्ट किया जाए, ऐसी गड़बड़ी की वहां पूरी संभावना रहती है।

इसलिए सरकार का यह प्रथम कर्तव्य है कि वह इस तरह का विधेयक लाये ताकि साफ-सुथरे चुनाव हों सकें। जिनमें कोई मैनपावर, मसलपावर, कैश, कास्ट, क्रिमिनल और कम्युनल का इस्तेमाल न हो। लेकिन अभी देश में दंगाई लोगों का बोलबाला है। आपने देखा कि दंगाई लोगों की जीत हुई है। क्या इन सभी पर रोक लगाने वाला कानून लाने की सरकार में हिम्मत है। कानून मंत्री यह विधेयक मूव करने के लिए लाये हैं।

यह विधेयक तो पहले का था और मंत्री जी अब लाए हैं। हम लोग तो चुनाव ही लड़ते आए हैं और हम जानते हैं कि चुनावों में क्या कुछ होता है। इसलिए चुनाव सुधाव वाला कंप्रीहेन्सिव विधेयक लाएं और उसमें राजनीति का अपराधीकरण और अपराधियों के राजनीतिकरण से जो देश और समाज पीड़ित है, उसकी सुरक्षा के लिए सम्यक कानून आना चाहिए। इस विधेयक से बहुत खराबी होगी और तमाम राजनैतिक दलों और संसद की इसमें बदनामी होने वाली है। इससे यह मैसेज यहां जा रहा है कि सुप्रीम कोर्ट रोकना चाह रही थी और सभी राजनीतिक दल मिलकर इसको खत्म करने के लिए ऑर्डिनेन्स लाए हैं और इस तरह का विधेयक लाए हैं। इसलिए इस विधेयक को पास करने से पहले हमें फिर से इस पर विचार करना चाहिए और तभी पास करना चाहिए।

DR. MANDA JAGANNATH (NAGAR KURNOOL): Sir, I rise to support the Bill on my personal behalf and on behalf of the Telugu Desam Party.

The Telugu Desam Party appreciates the directions given by the hon. Supreme Court in respect of Civil Appeal No. 7178 of 2001 and also subsequently by the Election Commission in curbing the criminalisation of politics, declaration of their assets and liabilities and educational qualifications. But according to the direction, merely by filing an affidavit, the returning officers have been given powers to reject the nomination, which is nothing but arbitrary and uncalled for.

There are many instances where a number of false cases have been filed against the very important politicians of

the country, which turned out to be false and they were let off by the court. By filing the affidavit in advance, while filing the nomination, the powers given to the returning officers, it deprives the contesting candidate to present his case properly. These allegations may turn out to be false in later part of the trial. So, that is why, our Party strongly opposes the filing of the affidavit well in advance, but it could be made a declaration after the candidate wins the elections. If he files any false declaration, let the law of the land take its own course, as is already existing.

Regarding the declaration of assets and liabilities, the practice is there that let the candidate after winning the elections, declare his assets and liabilities before the Presiding Officers of the respective Houses to which he is elected to − whether he is a Member of Parliament or a Member of the State Assembly. Later on, if he is really found to be declaring falsely, then he can be punished according to the law prevailing.

In curbing the criminalisation of politics, instead of going for directions from the courts and the Election Commission, as our hon. senior colleague pointed out, if the political parties take adequate measures in keeping away the criminals and corrupt people getting into the political system of the parties, we do not need any direction from anybody.

While selecting the candidates when we give the membership what the parties can do is by not awarding any membership to the individual with criminal record or having corrupt practices. If they are not given tickets then they will not be able to contest the elections. When it comes to the Telugu Desam Party, my Party had taken many measures in this regard. Our Party refuses even to award memebrship to the candidates with criminal record also and we have refused to give them tickets whenever they approach us for contesting either the Assembly or Parliament elections.

We have an Ethics Committee in Andhra Pradesh Legislative Assembly where all the candidates who are elected have to, well in advance, declare their assets and give those details to the hon. Speaker in a sealed cover.

If these measures are taken at the entry level by the political parties, definitely this will prevent the criminals from entering into the political system and they will not enter it.

Finally, while appreciating the hon. Minister for bringing out this Bill, I submit that it gives an opportunity of benefit of doubt for the candidates. The affidavit is filed in advance. As I said, this will deprive the candidate of his point because the powers given to the returning officer and the decision given by him is final and there is no appeal.

SHRI G.M. BANATWALLA (PONNANI) : Mr. Speaker, Sir, electors' right to information about the candidate must be treated with utmost respect. I concede that every possible information about the candidate should come to the electors. The Supreme Court gave certain instructions in this matter to the Election Commission and accordingly the Election Commission issued an order dated 28th June, 2002.

As far as the criminal antecedents of the candidates are concerned, fullest possible information must be supplied by the candidate to the returning officer while filing the nomination paper. I do not think there can be two opinions about that. Let the fullest information come and some way also be found out so that this information really reaches all the voters.

I must point out here that there can be no two opinions as far as this aspect of criminal antecedents is concerned and the information about them is concerned. But there is an important point that the Government must take note. There are those in our society who openly defy law and indulge into criminal acts, but go scot-free and are never prosecuted for reasons which we all know. Such persons do not come under the clutches of this law and they submit, what one can think of, a clean nomination paper which would have, otherwise, been a very abhorring nomination paper.

There may be a person, even the sitting Chief Minister of a State like Gujarat, accused openly by authoritative Commissions for genocide. But when no action is there by the Government, then there is no requirement, there is no question of the criminal antecedents technically speaking and, therefore, the nomination paper appears a clean nomination paper. There may be Commissions of inquiry; there may be Minority Commissions, Human Rights Commissions with legal and constitutional status accusing a person. There may be Respected Citizens' inquiry bodies accusing a person and such person appears innocent with clean nomination form because the Government, for reasons which we all know, has never proceeded to prosecute the person.

Therefore, it is necessary that the Government must take proper care in this particular matter.

There is the question of the candidate disclosing his financial assets at the time of filing the nomination paper. I respectfully submit that this may have an adverse impact and may produce undesirable effects which one does not desire.

Are people with financial status only to contest the elections? Should voters, while deciding who shall be their

representative, consider the financial status of a person? See what a havoc it will play with our democratic system.

Sir, of course, one understands that the purpose with which it is said, that the financial status should be disclosed at the time of nomination by a candidate, is prevention of future corruption and easy identification of corruption activities, but this point can be well taken care of, as is rightly put in the Bill, by a process that after the election, every elected Member can file − that is required by this Bill − the necessary statement with the hon. Speaker or the hon. Chairman. These can be scrutinised and it could be seen as to whether these could be properly continuously scrutinised and found out whether there is any abnormal increase in the financial status of a Member after his election. These are the matters that can be taken care of after election, but at the time of filing the nomination papers, the financial status cannot be a ground for a voter to consider as to whether a person can or cannot be his representative. This would lead not to a democratic system by popular Members, but it would lead to the elite alone being in a position to come over to this House.

Another question is of educational qualifications and whether a candidate should be required to disclose his educational qualifications while filing the nomination paper. I again say that it is not required that voters should decide their representatives on the ground of educational qualifications. There is no data, no research and no statistics to show that highly educated people are better parliamentarians or legislators than the less educated people. There is nothing to show that. Perhaps those less educated people may score even over the academicians and highly educated people. ...(*Interruptions*) Therefore, this requirement about educational qualifications, and a signal being given that perhaps educational qualification is very important in deciding as to who should be the candidate, who should be the representative of the people, would have an adverse impact. I need not elaborate that more than two-third of our population is not having proper literacy or education. Are you going to put them all to a disadvantageous position? That is not democracy. The right to electoral process is a sacred right, though unfortunately, in our country, it is not a constitutional right; it is a legal right at the whim and mercy of the transient majority that may come here in the Parliament or in the Legislatures. Still, the right to electoral process is an important right and must not be diluted by considerations which will not be in the interest of the people in having and selecting and choosing their true representatives.

Sir, I, however, feel that even the Constituent Assembly did not prescribe any financial status or an educational status for participation in the electoral contest. These considerations and requirements about candidates' disclosing their financial status, about candidates' disclosing that they are so highly educated is bringing such qualifications through the backdoor as were not accepted by the Constituent Assembly.

I would like to point out only one more thing, that is, the hon. Minister has rightly pointed out that a candidate who fails to give the necessary information or the affidavit or gives misleading, wrong, false information at the time of nomination is subject to punishments, but his nomination paper will not be rejected. I feel that there is a need for specific provision in the Bill saying that his nomination paper shall not be rejected on this ground alone. Yes, there must be penal provision to which the candidate may be subjected, but you and I and everybody knows that the Returning Officer has the legal right to reject a nomination on the ground of a substantial defect in the nomination paper. If the nomination paper does not have proper affidavit, if there is misleading, wrong or false information, then a Returning Officer can come to the conclusion that the legal requirements have not been complied with and, therefore, the defect is a substantial defect and the nomination paper can be rejected. In order to prevent this, it is necessary that there should be a specific provision that such candidates can be subjected to penal liability, but there cannot be a rejection of the paper and deprivation of his electoral right. I have my amendments on all these counts to be placed before the House.

It is also necessary that we provide in the Bill that the candidate should give information about whether there are any liabilities, particularly whether there are any overdues of any public financial institution or Government dues, apart from electricity bills or telephone bills and so on. However, this information should be given, and the candidate should also be required to give information whether he is required by law to file his income-tax returns and, if so, whether he has filed his latest due income-tax returns in time. At least, that much of information must go to the electors.

I conclude by saying that the electors' right to information be treated seriously and with due respect.

SHRI AJOY CHAKRABORTY (BASIRHAT): Hon. Deputy-Speaker, Sir, this long-term process has started at different times and in different tenures of different political parties who were in power. So many Committees were constituted regarding the electoral reforms, in order to curb and prevent the criminalisation of politics. My hon. senior colleague, Shri Somnath Chatterjee, mentioned the names of different Committees, such as the Dinesh Goswami Committee, Indrajit Gupta Committee, and all their recommendations were unanimous. They have submitted their respective Committee's recommendations to the Government. Now, the Government has brought forward this Bill before this House. Before bringing this Bill, there were a lot of deliberations, I think, among different political parties of different spheres. After that, the Bill has been brought forward before the House.

Sir, I have certain reservations on certain clauses of this Bill and I have given my amendments for that. It has been mentioned in one of the clauses that a person who has been given a chargesheet or even who has been convicted for two or more years would be debarred from contesting elections. A person would be debarred from contesting elections only if a chargesheet has been filed by the Prosecution. We cannot accept this clause. I have given my amendments regarding this. What is the nature of the charge for which a person has been given a chargesheet? If a political worker who is involved in trade union activities or is involved in some agrarian reforms activity, maybe that he is falsely implicated in some cases at different times in different States, what happens then? What happens in case of, say, sugarcane growers who are involved in an agitation over a legitimate cause, for getting remunerative prices for their produces and such other things and they are arrested by the police and given a chargesheet? In the State of Uttar Pradesh it so happened that three sugarcane-growing farmers were killed in police firing while they were agitating for their legitimate demands. What happens in a case where police slams 144 CrPC against any procession or demonstration of farmers or trade unions and the demonstrators violate imposition of 144 CrPC? They would be liable to be prosecuted under Section 188 of the IPC. The police will file chargesheets against them under Section 188 of the IPC for having violated Section 144 CrPC. Would such people be debarred from contesting elections? The provisions made in this clause in the Bill cannot be accepted. I would like to urge upon all sections of the House to accept my amendment in this regard.

Sir, I agree with the view expressed by Shri Dasmunsi that transparency should start at the very initial stage of the electoral process. My specific submission is that before filing a nomination, the candidate should file an affidavit before the Returning Officer wherein the contestant should disclose his or her moveable and immovable assets, his or her liabilities to the financial institutions and such other units. The Returning Officer, in turn, should make arrangements to make this available to the electorate at large.

Sir, I would not like to take names or raise an accusing finger at anybody but there has been a whispering across the country that in some States, persons with money and muscle power can win elections. In our country, in the tribal areas, the poor tribal people are prevented from going to the polling booths to exercise their adult franchise. So, we support this Bill with a few reservations.

Sir, again in regard to educational qualification, I would agree with the view expressed by Shri Somnath Chatterjee that educational qualifications need not be insisted upon as a matter of principle. So, with certain reservations and with a few words of caution, we support this Bill.

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): Sir, let me also be given a chance to speak for a few minutes on this...(*Interruptions*)

MR.DEPUTY-SPEAKER: We have to finish this Bill now.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF COMMUNICATIONS AND INFORMATION TECHNOLOGY (SHRI PRAMOD MAHAJAN): We have to start a very important discussion at 4 p.m. today...(*Interruptions*)

SHRI PAWAN KUMAR BANSAL : Sir, we should not rush through legislation like this...(*Interruptions*) It is not that in our anxiety to clear the Bill we should have to rush through it and then take pride in saying that we have passed so many Bills and so on and so forth.

MR. DEPUTY-SPEAKER: We have discussed it in the Business Advisory Committee and fixed the time for this Bill. We have already exceeded that time.

SHRI AJIT KUMAR PANJA (CALCUTTA, NORTH EAST): Sir, please give me two minutes. I got two minutes on the National Highways Bill also.

MR. DEPUTY-SPEAKER: If I give two minutes to you, two minutes to Shri Kharabela Swain, five minutes to Shri Pawan Kumar Bansal, it will go on and on. I am sorry, Shri Panja, please cooperate. Now, the Minister.

THE MINISTER OF STATE IN THE MINISTRY OF COAL AND MINES AND MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI RAVI SHANKAR PRASAD): Mr. Deputy-Speaker, Sir, I am very grateful to the all the hon. Members from Shri Somnath Chatterjee to Shri Priya Ranjan Dasmunsi, Shri Banatwalla, Shri Shivraj Singh Chauhan and others who have made very eloquent and forthright observations and, by and large, supported the Bill.

Shri Priya Ranjan Dasmunsi had some very good words to say about me. I am touched and I do not think I deserve them. However, I shall try to live up to the views he has expressed about me.

A consistent view has been expressed by Shri Somnath Chatterjee, Shri Priya Ranjan Dasmunsi and by others about the supremacy of Parliament. All of us acknowledge that. The other issues are not within the domain of

today's issue. I would certainly wish to add that our Constitution exists upon a delicate balance of relationship among the Executive, the Judiciary and the Parliament. All of us should make a collective effort to ensure that that delicate balance is properly maintained.

Shri Somnath Chatterjee mentioned the initiative taken on electoral reforms. We do acknowledge that. As far as our Government is concerned, we have been taking steps like that. We know that fund is needed, but fund does not come from transparent sources. We have come with a Bill, which is presently pending with the Standing Committee, which says that corporate funding shall be allowed and shall be entitled for tax exemption. We knew that in Rajya Sabha elections money power was playing havoc. Therefore, we have come with a Bill which enables open voting in Rajya Sabha elections. That Bill is also presently pending with the Standing Committee. Other steps would also be taken.

As far as the present Bill is concerned, let me clarify one factual aspect. We all honour the Supreme Court and the High Courts. The problem arose because the Election Commission came with an order saying that if an affidavit is not filed, in which the contesting candidate can file an affidavit, then the Returning Officer can reject the nomination paper. This power was not given by the Supreme Court to the Election Commission. With due respect, the Election Commission usurped that power.

रघुवंश बाबू, हमने कुछ नहीं छिपाया था। जब चुनाव आयोग ने पूर्ववर्ती विधि मंत्री को पत्र लिखा तो विधि मंत्री ने कहा कि आप इस फॉर्म में संशोधन करना चाहते हैं, हम सभी राजनीतिक दलों की राय लेना चाहते हैं इसलिए आप उच्चतम न्यायालय से थोड़ा समय बढ़वाइए। चुनाव आयोग ने कहा कि हम नहीं बढ़ाएंगे और उसने नोटिफिकेशन इश्यू कर दिया। हम कोआपरेट करने को हमेशा उपलब्ध रहे हैं, आपका यह आरोप तथ्य से परे है, इतना ही मैं आपको बताना चाहता हूं।

Having come to that, we went in for building a consensus. Here I would like to remind Shri Priya Ranjan Dasmunsi one thing. Two meetings were held on two dates in July and August. In fact, we tried to build a consensus on a few things. The first consensus was on making a legislation because this cannot be done through forms. The second consensus was on the point that the Returning Officers should not be given the power to reject nomination papers. The third consensus was on the point that assets and liability statement should be filed post-elections. About the educational qualifications. ...(*Interruptions*) All right. That was there. Shri Somnath Chatterjee was present in the meeting. I do not want to say anything further.

As far as educational qualification of the candidates was concerned, there was a consistent view, expressed by the leader of your political party too, that educational qualification was never considered a factor for contesting elections, by the founding fathers. There was also a mention of two eminent people, a Prime Minister of England and a President of America, who were not properly qualified.

This is a larger issue. Suppose there are two candidates − one with Ph.D., and D.Litt. Degrees and the other who is a First Grade pass villager. Does that villager has a right to contest elections or not, when equality of franchise has been given? We also appreciate that an illiterate person has got as much common sense as a Ph.D. holder or holder of a post-graduate degree. He has got equal right of contesting elections in the country. That is our position. This consensus we have taken as a result of which this Bill has come about.

Other issues were raised by Shri Raghuvansh Prasad Yadav. आम आदमी को परेशानी होगी। रघुवंश बाबू, अगर आप बिल को ठीक से पढ़ें, आप खूब पढ़ते हैं तो शायद आपकी आशंकाएं निर्मूल साबित होंगी। हमने पहली बात यह कही है कि अगर आपको एक साल की भी सजा होती है तो वह आपको एफिडेविट पर बताना पड़ेगा। दूसरा हमने यह कहा कि अगर आपके खिलाफ कोई मामला पैंडिंग है, जिसमें चार्ज फ्रेम हो गया और दो साल की सजा हो सकती है, वह आपको एफिडेविट में बताना पड़ेगा। आदरणीय माननीय सदस्य को जानकारी होगी कि चार्ज फ्रेम अभियुक्त के सामने आता है। अत: उस मामले की जानकारी आपको होगी।

15.56 hrs. (MR. SPEAKER in the Chair)

हमने मीसा, डीआईआर और प्रिवेंटिव डिटेंशन लॉ का जिक्र नहीं किया है, इसलिए अगर एक साल का आपका कंविक्शन हो गया तो वह आपको बताना है। अगर आपके खिलाफ दो साल की सजायाप्ता वाला चार्ज फ्रेम हो गया तो वह आपको बताना है। ये दो बातें हमने इसमें महत्वपूर्ण रखी हैं।

Sir, as far as assets liability part and criminal part are concerned, Shri Somnath Chatterjee has said that we have come with a very strong provision. What is that? If a charge has been framed in heinous offences in two separate cases, like murder, rape or kidnapping for ransom, you are liable to be disqualified. But there was no consensus. Everyone said that we should go by conviction only. Therefore, we board out. For the assets part also, we have said that dues to the bank, Government or to cooperative bank, and also your movable and immovable property and that of your spouse and minor children, all are to be filed,.within three months before the Presiding Officer of Parliament and wilful default will lead to breach of privilege consequences. Therefore, we have come with a very comprehensive Bill which still requires to be further reinforced.

Shri Banatwalla has mentioned about Gujarat. I do not know from where he brings in Shri Modi and Gujarat in every discussion, which was not at all needed.

SHRI SOMNATH CHATTERJEE : They can be very easily brought in.

SHRI RAVI SHANKAR PRASAD: I wish to inform him that a Commission of Inquiry is going on. How can we make sweeping comments in the House that anyone has been condemned, more particularly because of the massive victory which we have seen only two days ago? That is a separate matter. Therefore, we have taken all the concerns....(*Interruptions*)

SHRI SOMNATH CHATTERJEE : You can take his advice.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF COMMUNICATIONS AND INFORMATION TECHNOLOGY (SHRI PRAMOD MAHAJAN): He can take it only after the passage of the Bill.

SHRI RAVI SHANKAR PRASAD: So, this brings a legislation which is the exercising authority of the Parliament.

MR. SPEAKER: Mr. Minister, how much more time you will take?

SHRI RAVI SHANKAR PRASAD: I am concluding, Sir.

Shri Banatwalla has said that we should have a specific provision that the nomination papers shall not be rejected. I would only like to inform him that there is a very specific provision in the Representation of People Act, in sub-section (2) of section 36, whereunder rejection of nomination paper is permissible only for violation of sections 33 and 34. Section 33 says that it should be the citizens of India and so on and section 34 speaks about deposit. Therefore, the Returning Officer shall have no other power. So, your concerns are allayed there. The law is very clear.

With all these words, I deeply appreciate the very spirited participation of eminent Members and commend that the Bill may be passed.

MR. SPEAKER: Shri Ramji Lal Suman is not present in the House. I shall now put the Statutory Resolution moved by Shri Ramji Lal Suman to the vote of the House.

The question is:

> "That this House disapproves of the Representation of the People (Amendment) Ordinance, 2002 (No.4 of 2002) promulgated by the President on 24 August, 2002. "

The motion was negatived.

MR. SPEAKER: Now, the question is:

> *"That the Bill further to amend the Representation of the People Act, 1951, be taken into consideration."*

The motion was adopted.

MR. SPEAKER: The House shall nowtake up clause-by-clause consideration of the Bill.

बनातवाला जी, आप मूव कर रहे हैं या विदड्रा कर रहे हैं?

SHRI G.M. BANATWALLA : Sir, I beg to move:

Page 1, line11,-

after "charge has been framed"

insert "or cognizance has been taken" (5)

Page 2, line 1,-

after "convicted"

insert "or acquitted or discharged" (6)

Page 2, line 3,-

after "for one year or more"

insert "or fine" (7)

Page 2,-

after line 3, *insertâ€"*

"(iii) he has any liabilities, particularly whether there are any overdues of any public financial institution or government dues;

(iv) he is required by law to file his income-tax returns and, if so, whether he has filed his latest due income-tax return."(8)

SHRI AJOY CHAKRABORTY : Sir, I beg to move:

Page 2,--

after line 3, *insertâ€"*

"(iii) A prosecution was launched against him, a short account of such prosecution in the years preceding his nomination, the conviction if any, and the circumstances under which such prosecution was launched." (10)

Page 2,--

after line 7, insertâ€"

"(2A) Every candidate shall while filing his nomination, furnish information supported by affidavit relating to:

i. the movable and immovable property of which he is the owner or a beneficiary;
ii. his liabilities to any public financial institution; and
iii. his liabilities to the Central Government or the State Government,

to the Returning Officer and he shall also display such information at a conspicuous place in his office for the information of the electors." (11)

SHRI PRIYA RANJAN DASMUNSI : Sir, I beg to move:

Page 2,--

after line 3, *insertâ€"*

"(2) Every candidate shall furnish a full statement before the Returning Officer in his/(her) nomination paper for a House of Parliament or the Legislature of a State, the following information relating toâ€"

i. the movable and immovable property of which he/(she) is the owner or a beneficiary;
ii. his/(her) liabilities to any public financial institution; and

iii. his/(her) liabilities to the Central Government or the State Government". (12)

Page 2,--

after line 12, *insertâ€"*

Explanation for the purpose of this section:

i. "immovable property" means the land and includes any building or other structure attached to the land or permanently fastened to anything which is attached to the land.
ii. "movable property" means any other property which is not the immovable property and includes corporeal and incorporeal property of every description.
iii. "public financial institution" means a public financial institution within the meaning of section 4A of the companies Act, 1956 and includes bank; and
iv. "bank referred to in clause (iii) meansâ€"

a. "State Bank of India" constituted under section 3 of the State Bank Act, 1955;
b. "Subsidiary Bank" having the meaning assigned to it in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959;
c. "Regional Rural Bank" established under section 3 of the Regional Rural Banks Act, 1976;
d. "Corresponding New Bank" having the meaning assigned to it in clause (da) of section 5 of the Banking Regulation Act, 1949; and
e. "Co-operative Bank" having the meaning assigned to it in clause (cci) of section 5 of the Banking Regulation Act, 1949 as modified by sub-clause (i) of clause (c) of section 56 of that Act. (13)

Page1,.--

f*or* lines 10 to 12, *substitute-*

"(i) he was considered convicted, acquitted or discharged of any criminal offence in the past, if nay, and whether he was punished with imprisonment or fine; "

(ii)" he is accused in any pending case, prior to six months of his filing, punishable with imprisonment for two years or more, and in which charge has been framed or cognizance is taken by the Court of Law; " (15)

Page 2,--

a*fter* line 7, *insertâ€"*

"(2A) Every candidate to fill a seat in either House of Parliament or the Legislature of a State shall furnish the information relating to:

i. movable and immovable property of which he is the owner, or in the name of his spouse or dependents;
ii. his liabilities to any financial institutin;
iii. his liabilities to the Central Government or the State Government; and
iv. his educational qualifications.

(2) the information shall be given in the form of an affidavit along with the information envisaged in section 33A(1)(i) and (ii) ". (16)

SHRI SHIVRAJ V. PATIL (LATUR): Sir, I beg to move:

Page 2,--

after line 3, *insertâ€"*

"(2) Every candidate shall furnish a full statement before the Returning Officer in his(her) Nomination Paper for a House of Parliament or the Legislature of a State, the following information relating toâ€”

a. the movable and immovable property of which he, his spouse and dependents are the owner of or beneficiaries;
b. his, his spouse or his dependents' liabilities to any public financial institutions and banks;
c. his, his spouse or his dependents' liabilities to the Central Government or the State Government." (14)

MR. SPEAKER: I shall now put all the amendments moved to Clause 2 of the Bill to vote.

The amendments were put and negatived.

16.00 hrs.

MR. SPEAKER: The questions is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

Clause 4 Amendment of

Section 94

Amendments made:

Page 2 and 3, --

for lines 25 to 49 and 1 to 12 respectively, *substitute*

"75A. (1) Every elected candidate for a House of Parliament shall, within ninety days from the date on which he makes and subscribes an oath or affirmation, according to the form set out for the purpose in the Third Schedule to the Constitution, for taking his seat in either House of Parliament, furnish the information, relating toâ€”

i. the movable or immovable property of which he, his spouse and his dependant children are jointly or severally owners or beneficiaries;
ii. his liabilities to any public financial institution; and
iii. his liabilities to the Central Government or the State Government,

to the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.

(2) The information under sub-section (1) shall be furnished in such form

and in such manner as may be prescribed in the rules made under sub-section (3).

(3) The Chairman of the Council of States or the Speaker of the House of the People, as the case may be, may make rules for the purposes of sub-section (2).

(4) The rules made by the Chairman of the Council of States or the Speaker of the House of the People under sub-section (3) shall be laid, as soon as may be after they are made, before the Council of States or the House of the People, as the case may be, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and shall take effect upon the expiry of the said period of thirty days unless they are sooner approved with or without modifications or disapproved by the Council of States or the House of the People and where they are so approved, they shall take effect on such approval in the form in which they were laid or in such modified form, as the case may be, and where they are so disapproved, they shall be of no effect.

(5) The Chairman of the Council of States or the Speaker of the House of the People, as the case may be, may direct that any wilful contravention of the rules made under sub-section (3) by an elected candidate for a House of Parliament referred to in sub-section (1) may be dealt with in the same manner as a breach of privilege of the Council of States or the House of the People, as the case may be.". (1)

Page 3 line 21, *for* "includes bank; and", *substitute* "includes bank;". (2)

Page 3 line 33, *for* "that Act.'.", *substitute* "that Act; and". (3)

Page 3 after line 33, *insert* ----

'(v) "dependant children" means sons and daughters who have no separate means of earning and are wholly dependent on the elected candidate referred to in sub-section (1) for their livelihood.'. (4)

(Shri Ravi Shankar Prasad)

MR. SPEAKER: The question is:

"That clause 4, as amended, stand part of the Bill."

The motion was adopted.

Clause 4, as amended, was added to the Bill.

SHRI SOMNATH CHATTERJEE : Sir, may I seek one clarification? Why are you omitting the State Legislature? The Union List has got the power.

SHRI RAVI SHANKAR PRASAD: Sir, you are a very eminent lawyer. The problem is that as far as the privilege part is concerned, that power is available to the State Legislature. Since it relates to breach of privilege, that power has to be with them.

Clause 5 Amendment of Section 128

SHRI G.M. BANATWALLA (PONNANI): Sir, I beg to move:

Page 3, line 46,--

a*fter* "or with both"

insert "but his nomination paper shall not be liable to be rejected by the returning officer at the time of the scrutiny of the nomination." (9)

MR. SPEAKER: I shall now put amendment No.9 to clause 5 moved by Shri G.M. Banatwalla to the vote of the House.

The amendment was put and negatived.

MR. SPEAKER: The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clauses 6 and 7 were added to the Bill.

Clause 1 Short Title

Amendment made:

Page 1, line 2,-

for "(Amendment)"

substitute "(Third Amendment)" (17)

(Shri Ravi Shankar Prasad)

MR. SPEAKER: The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The Enacting Formula and the Long Title were added to the Bill.

SHRI RAVI SHANKAR PRASAD: I beg to move:

"That the Bill, as amended, be passed."

MR. SPEAKER: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.